

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 26 1991

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ERIC RAMON BROOKS,

Defendant.

No. 89-CR-90-C

ORDER

Before the Court is the motion of defendant Eric Ramon Brooks for release pending appeal.

Defendant's request for release pending appeal from judgment of conviction is made pursuant to Rule 9(b) F.R.Cr.P. This motion involves application of the Bail Reform Act of 1984, 18 U.S.C. §3143(b), which provides the defendant shall be detained unless the Court finds (1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or to the community if released under §3143(b)(1), and (2) that by a preponderance of the evidence, the Court finds the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial under §3143(b)(2).


In his pro se motion, defendant sets forth his basis for asserting that he is not likely to flee or pose a danger to the safety of any other person in the community. However, defendant's

motion is void of any assertion regarding the second statutory requirement, that the appeal involves a substantial question of law or fact likely to result in a reversal or an order for a new trial.

Both statutory requirements must be satisfied for a defendant to qualify for release pending appeal. From a review of the record, the Court is not aware of the existence of any such substantial questions of law or fact likely to result in reversal or new trial.

Accordingly, defendant's motion is denied.

IT IS SO ORDERED this 26th day of February, 1991.



H. DALE COOK
Chief Judge, U. S. District Court

United States District Court

NORTHERN

District of

OKLAHOMA

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE (For Offenses Committed On or After November 1, 1987)

Harold Edward Staples, III

Case Number: 90-CR-075-001-C

(Name of Defendant)

Clark Brewster

Defendant's Attorney

THE DEFENDANT:

- ☐ pleaded guilty to count(s) _____
- ☒ was found guilty on count(s) One of the Indictment after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
26:5861(d)	Possession of an Unregistered Firearm	12-29-89	One

FILED
FEB 25 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that this is a true and correct copy of the original on file in this Court.

Jack C. Silver, Clerk

By [Signature]
Deputy

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

- ☐ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
- ☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.
- ☒ It is ordered that the defendant shall pay a special assessment of \$ 50, for count(s) One, which shall be due ☒ immediately ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 446-56-9981Defendant's Date of Birth: 02-24-54

Defendant's Mailing Address:

1412 North Second StreetJenks, Oklahoma 74037

Defendant's Residence Address:

Same as mailing

February 20, 1991

Date of Imposition of Sentence

[Signature]
Signature of Judicial Officer

The Honorable H. Dale Cook
Chief, U.S. District Judge

Name & Title of Judicial Officer

Date

Defendant: Harold Edward Staples, III
Case Number: 90-CR-075-001-C

Judgment—Page 2 of 4

PROBATION

The defendant is hereby placed on probation for a term of Five (5) years.

While on probation, the defendant shall not commit another Federal, state, or local crime, shall not illegally possess a controlled substance, and shall not possess a firearm or destructive device. The defendant also shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution. The defendant shall comply with the following additional conditions:

- (1) Dispose of all firearms.
- (2) Pay \$5,000 fine.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) the defendant shall submit to urinalysis as directed by the Probation Office.

Defendant: Harold Edward Staples, III
Case Number: 90-CR-075-001-C

Judgment—Page 3 of 4

FINE

The defendant shall pay a fine of \$ 5,000. The fine includes any costs of incarceration and/or supervision.

☐ This amount is the total of the fines imposed on individual counts, as follows:

☐ The court has determined that the defendant does not have the ability to pay interest. It is ordered that:

- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

This fine plus any interest required shall be paid:

- ☒ in full immediately.
- ☐ in full not later than _____.
- ☐ in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
- ☐ in installments according to the following schedule of payments:

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: Harold Edward Staples, III
Case Number: 90-CR-075-001-C

Judgment—Page 4 of 4

STATEMENT OF REASONS

☐ The court adopts the factual findings and guideline application in the presentence report.

OR

☒ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

The Court finds the defendant possessed the firearm in question for sporting purposes and reduces the offense level to 6 pursuant to 2K2.1(b)(1).

Guideline Range Determined by the Court:

Total Offense Level: 6

Criminal History Category: I

Imprisonment Range: 0 to 6 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 500 to \$ 5,000

☐ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ N/A

☐ Full restitution is not ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSHUA ALAN AVEN

Defendant.

No. 90-CR-91-C

FILED

FEB 19 1991

MOTION AND ORDER OF DISMISSAL

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, and by leave of court endorsed hereon, the United States Attorney for the Northern District of Oklahoma hereby moves to dismiss without prejudice Counts Two and Three of the Indictment against Joshua Alan Aven, defendant.

TONY M. GRAHAM
United States Attorney


SUSAN K. MORGAN
Assistant United States Attorney

Leave of court is granted for the filing of the foregoing motion to dismiss and the Court hereby orders dismissal of the requested Counts of the Indictment.

(Signed) H. Dale Cook
H. DALE COOK
United States District Judge

Date:

SKM:bjk

United States District Court

NORTHERN

District of

OKLAHOMA

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 90-CR-091-001-C

JOSHUA A. AVEN

(Name of Defendant)

Stephen Greubel

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) One & Four of Indictment
- ☐ was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1029 (a) (2)	UNLAWFUL USE OF ACCESS DEVICE	4-89	I
18 USC 1029 (a) (2)	UNLAWFUL USE OF ACCESS DEVICE	9-89	IV

FILED**FEB 19 1991**

Jack C. Silver, Clerk

U.S. DISTRICT COURT

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

- ☐ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
- ☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.
- ☒ It is ordered that the defendant shall pay a special assessment of \$ \$100, for count(s) Counts I & IV, which shall be due ☒ immediately ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 426-06-1759Defendant's Date of Birth: 08-09-65

Defendant's Mailing Address:

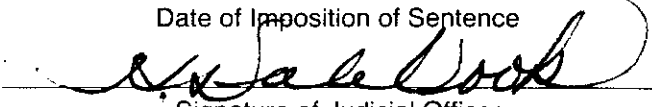
Tulsa County Jail
Tulsa, Oklahoma

Defendant's Residence Address:

Same

February 11, 1991

Date of Imposition of Sentence


 Signature of Judicial Officer
 H. Dale Cook, Chief
 U. S. District Judge

Name & Title of Judicial Officer

 United States District Court
 Northern District of Oklahoma
 I hereby certify that the foregoing
 is a true and correct copy of the original on file
 in this court.

Jack C. Silver, Clerk

 By R. Miller
 Deputy

Date

Defendant: JOSHUA A. AVEN
Case Number: 90-CR-091-001-C

Judgment—Page 2 of 5

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 40 months

Ct. I - 40 months

Ct. IV - 40 months to run concurrent with sentence imposed in Ct. I.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States marshal.

☐ The defendant shall surrender to the United States marshal for this district,

☐ at _____ a.m.
_____ p.m. on _____.

☐ as notified by the United States marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,

☐ before 2 p.m. on _____.

☐ as notified by the United States marshal.

☐ as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____, with a certified copy of this judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: JOSHUA A. AVEN
Case Number: 90-CR-091-001-C

Judgment—Page 3 of 5**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of _____

3 years

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- ☒ The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- ☐ The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- ☒ The defendant shall not possess a firearm or destructive device.

Restitution as more fully described on page 4 of this Judgement & Commitment Order.

That the defendant provide the probation officer with access to any requested financial information.

That the defendant be prohibited from entering into any business transaction incurring any new credit charges or opening additional lines of credit without prior approval of the U. S. Probation Office.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) That the defendant submit to urinalysis testing on a random basis as directed by the U. S. Probation Office.

Defendant: JOSHUA A. AVEN
Case Number: 90-CR-091-001-C

Judgment—Page 4 of 5

RESTITUTION AND FORFEITURE

RESTITUTION

☒ The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Citicorp Credit Services, Inc. 2201 North Central Expressway, Suite 201 Richardson, Texas 75080	\$ 22,348.81
American Express 602 Sawyer, Suite 440 Houston, Texas 77007	\$ 6,695.74
J. C. Penny & Company 8140 S. Holly Littleton, Colorado 80122	6,318.91

Payments of restitution are to be made to:

- ☒ the United States Attorney for transfer to the payee(s).
☐ the payee(s).

Restitution shall be paid:

- ☐ in full immediately.
☐ in full not later than _____.
☐ in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
☒ in installments according to the following schedule of payments: as directed by the U. S. Probation Office.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

- ☐ The defendant is ordered to forfeit the following property to the United States:

Defendant: JOSHUA A. AVEN
Case Number: 90-CR-091-001-C

STATEMENT OF REASONS

☐ The court adopts the factual findings and guideline application in the presentence report.

OR

☒ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Evidence is not sufficient to warrant a 2 point enhancement for Obstruction of Justice.

Guideline Range Determined by the Court:

Total Offense Level: 14

Criminal History Category: VI

Imprisonment Range: 37 to 46 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 4,000 to \$ 288,098

☒ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 35,363.46

☐ Full restitution is not ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):

FILED

United States District Court FEB 19 1991

Northern District of Oklahoma

Jack C. Silver, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

OLIVER WAYNE PERRY

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 90-CR-088-001-B

(Name of Defendant)

Steve Greubel

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) One of the Indictment
- ☐ was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
Title 18, United States Code, Section 1029(a)(2)	Use of An Unauthorized Access Device to Obtain Items Worth More Than \$1,000	10/10/89	I

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Jack C. Silver, Clerk

By W. Overton
DeputyThe defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

- ☐ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
- ☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.
- ☒ It is ordered that the defendant shall pay a special assessment of \$ 50, for count(s) One of the Indictment, which shall be due ☒ immediately ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 445-74-3769Defendant's Date of Birth: 12/12/62

Defendant's Mailing Address:

10314 South 234th East AvenueBroken Arrow, Oklahoma 74014

Defendant's Residence Address:

same

February 12, 1991

Date of Imposition of Sentence

Thomas R. Brett

Signature of Judicial Officer

Thomas R. Brett

U.S. District Judge

Name & Title of Judicial Officer

Feb. 18, 1991

Date

Defendant: Oliver Wayne Perry
Case Number: 90-CR-088-001-B

Judgment—Page 2 of 5

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 12 months

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States marshal.

☐ The defendant shall surrender to the United States marshal for this district,

☐ at _____ a.m.
_____ p.m. on _____

☐ as notified by the United States marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,

☐ before 2 p.m. on _____

☐ as notified by the United States marshal.

☐ as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____, with a certified copy of this judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: Oliver Wayne Perry
Case Number: 90-CR-088-001-B

Judgment—Page 3 of 5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of _____

3 years

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- ☒ The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- ☐ The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- ☒ The defendant shall not possess a firearm or destructive device.

The defendant shall participate in a drug treatment program as directed by the U.S. Probation Office.

The defendant shall pay restitution as set forth on page 4 of this Judgment.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) the defendant shall submit to urinalysis testing as directed by the U.S. Probation Office.

Defendant: Oliver Wayne Perry
Case Number: 90-CR-088-001-B

Judgment—Page 4 of 5

RESTITUTION AND FORFEITURE

RESTITUTION

☒ The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
First Bank Card Center (VISA) P.O. Box 3437 Omaha, Nebraska 68107 Acct. No. 4418023726238157	\$2,664.34

Payments of restitution are to be made to:

- ☒ the United States Attorney for transfer to the payee(s).
- ☐ the payee(s).

Restitution shall be paid:

- ☐ in full immediately.
- ☐ in full not later than _____.
- ☐ in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
- ☒ in installments according to the following schedule of payments:

The defendant shall pay restitution to the United States Attorney for transfer to the payee as directed by the U.S. Probation Office.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

- ☐ The defendant is ordered to forfeit the following property to the United States:

Defendant: Oliver Wayne Perry
Case Number: 90-CR-088-001-B

Judgment—Page 5 of 5

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 7

Criminal History Category: V

Imprisonment Range: 12 to 18 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 2,664.34 to \$ 7,993.02

☒ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 2,664.34

☐ Full restitution is not ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):

FILED**United States District Court****FEB 19 1991**

NORTHERN

DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

NED A. KALED

Case Number: 90-CR-072-001-B

7921 S. 76th E. Ave.
Tulsa, Oklahoma 74133Patrick Malloy, III
Pat Malloy
Terry Malloy

(Name and Address of Defendant)

Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:☒ guilty ☐ nolo contendere] as to count(s) One of the Information, and
☐ not guilty as to count(s) _____**THERE WAS A:**☒ finding ☐ verdict] of guilty as to count(s) One of the Information**THERE WAS A:**☐ finding ☐ verdict] of not guilty as to count(s) _____
☐ judgment of acquittal as to count(s) _____

The defendant is acquitted and discharged as to this/these count(s).

THE DEFENDANT IS CONVICTED OF THE OFFENSE(S) OF:

Mail Fraud, Title 18, United States Code, Section 1340

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Jack C. Silver, Clerk

By H. Overton
Deputy**IT IS THE JUDGMENT OF THIS COURT THAT:**

The imposition of sentence is suspended and defendant is placed on probation for four (4) years. The defendant is to pay a \$5,000 fine as directed by the U.S. Probation Office. As a condition of probation, the defendant is to provide any and all financial records requested by the U.S. Probation Office that may be necessary to monitor his financial affairs. Further, as a condition of probation the defendant is to pay restitution in the amount of \$1,407.78 to Sterling Technologies, Incorporated, in care of Fred Woodson, Trustee for Sterling Technologies' bankruptcy proceeding (Ned Kaled), 111 West Fifth Street, Tulsa, Oklahoma. Restitution should be paid by December 31, 1991, as directed by the U.S. Probation Office.

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of probation set out on the reverse of this judgment are imposed.

CONDITIONS OF PROBATION

Where probation has been ordered the defendant shall:

- (1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. (When out of work notify your probation officer at once, and consult him prior to job changes);
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any changes in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

The court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

IT IS FURTHER ORDERED that the defendant shall pay a total special assessment of \$ 50.00 pursuant to Title 18, U.S.C. Section 3013 for count(s) One of the Information as follows:

Count One - \$50.00, due immediately

IT IS FURTHER ORDERED THAT counts One through Twenty-three of the Indictment are DISMISSED on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall pay to the United States attorney for this district any amount imposed as a fine, restitution or special assessment. The defendant shall pay to the clerk of the court any amount imposed as a cost of prosecution. Until all fines, restitution, special assessments and costs are fully paid, the defendant shall immediately notify the United States attorney for this district of any change in name and address.

IT IS FURTHER ORDERED that the clerk of the court deliver a certified copy of this judgment to the United States marshal of this district.

☐ The Court orders commitment to the custody of the Attorney General and recommends:

February 12, 1991

Date of Imposition of Sentence

Thomas R. Brett
Signature of Judicial Officer
The Honorable Thomas R. Brett
U.S. District Judge

Name and Title of Judicial Officer

2-18-91

Date

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____ at _____
Date

_____, the institution designated by the Attorney General, with a certified copy of this Judgment in a Criminal Case.

United States Marshal

By _____
Deputy Marshal

United States District Court

NORTHERN District of OKLAHOMA

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE (For Offenses Committed On or After November 1, 1987)

Robert Leslie Johnson **FILED** Case Number: 89-CR-137-001-C

(Name of Defendant)

FEB 19 1991

Stanley Monroe

Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s) Jack C. Silver, Clerk
U.S. DISTRICT COURT
☒ was found guilty on count(s) Two through Sixty-three of the Indictment after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18:1956(a)(1) (A)(i)	Laundering of Monetary Instruments	1-17-89	2, 3
18:1957	Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity	2-16-89	4 through 63

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

- ☒ The defendant has been found not guilty on count(s) One of the Indictment, and is discharged as to such count(s).
- ☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.
- ☒ It is ordered that the defendant shall pay a special assessment of \$ 3,100 (Total), for count(s) Two through Sixty-three, which shall be due ☒ immediately ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 548-53-8884

Defendant's Date of Birth: 8-12-43

Defendant's Mailing Address:

2154 East Viking Road

Las Vegas, Nevada 89109

Defendant's Residence Address:

Same

11 February 1991

Date of Imposition of Sentence

[Signature]

Signature of Judicial Officer

The Honorable H. Dale Cook
Chief, U.S. District Judge

Name & Title of Judicial Officer

United States District Court)
Northern District of Oklahoma)
I hereby certify that the foregoing
is a true and correct copy of the original on file
in this Court.

Jack C. Silver, Clerk

By *[Signature]*
Deputy

Date

Defendant: Johnson, Robert L.
Case Number: 89-CR-137-001-C

Judgment—Page 2 of 4**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 405 months as follows:

Count Two	240 months
Count Three	165 months, consecutive to sentence imposed in Count Two
Count Four	10 years, each count, to run concurrently with sentence in Count Three
Through	
Sixty-three	

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States marshal.

☐ The defendant shall surrender to the United States marshal for this district,

☐ at _____ a.m.
_____ p.m. on _____.

☐ as notified by the United States marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,

☐ before 2 p.m. on _____.

☐ as notified by the United States marshal.

☐ as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____, with a certified copy of this judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: Johnson, Robert Leslie
Case Number: 89-CR-137-001-C

Judgment—Page 3 of 4**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of _____

Three Years

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- ☒ The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- ☐ The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- ☒ The defendant shall not possess a firearm or destructive device.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) the defendant shall submit to urinalysis as requested by the Probation Office.

Defendant: Johnson, Robert Leslie
Case Number: 89-CR-137-001-C

Judgment—Page 4 of 4**STATEMENT OF REASONS**

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:Total Offense Level: 37Criminal History Category: VImprisonment Range: 324 to 405 monthsSupervised Release Range: 2 to 3 yearsFine Range: \$ 2,823,579 to \$ 60,000,000

☒ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 1,836,871.74

☒ Full restitution is not ordered for the following reason(s):

Due to the defendants lengthy incarceration, and the seizure of his assets by the Government.

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☒ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

Sentence was at the top of the guideline range due to the extensive nature of the defendant's criminal activity.

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):

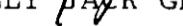
F I L E D

FEB 11 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

BILLY JACK GRAY,

No. 91-CR-002-C


BILLY JACK GRAY, Defendant


Assistant United States Attorney

Date:

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB 8 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL BARON SEELY,

Defendant.

No. 90-CR-110-E

ORDER

Upon motion of the government this Court hereby dismisses
Count One of the Indictment.

2/8/91

S/ JAMES O. ELLISON

JAMES O. ELLISON
United States District Judge

FILED**United States District Court**

FEB 8 1991

NORTHERN

District of OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

MICHAEL BARON SEELY

Case Number: 90-CR-110-001-E

(Name of Defendant)

Mark Lyons

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) Two of the Indictment
- ☐ was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18:511(a)	Removal of Vehicle Identification Number	May 28, 1990	Two

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

- ☐ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
- ☒ Count(s) One of the Indictment (is)(are) dismissed on the motion of the United States.
- ☒ It is ordered that the defendant shall pay a special assessment of \$ 50.00, for count(s) Two of the Indictment, which shall be due ☒ immediately ☐ as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 440-68-9941Defendant's Date of Birth: 08-08-58

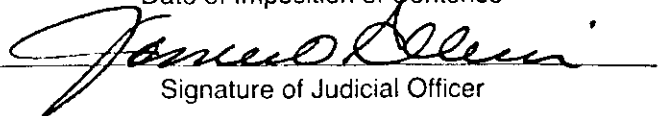
Defendant's Mailing Address:

P. O. Box 694Nowata, Oklahoma 74048

Defendant's Residence Address:

SameJanuary 24, 1991

Date of Imposition of Sentence



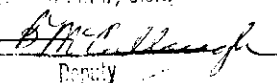
Signature of Judicial Officer

James O. Ellison, U.S. District Judge

Name & Title of Judicial Officer

2/8/91

Date

BY 
Deputy

Defendant: Michael Baron Seely
Case Number: 90-CR-110-001-E

Judgment—Page 2 of 4

PROBATION

The defendant is hereby placed on probation for a term of Three (3) Years.

While on probation, the defendant shall not commit another Federal, state, or local crime, shall not illegally possess a controlled substance, and shall not possess a firearm or destructive device. The defendant also shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution. The defendant shall comply with the following additional conditions:

- 1) Participate in substance abuse treatment and monitoring as directed by the U. S. Probation Office.
- 2) Pay restitution in the amount of \$345.14 to Miami Ford Motor Co., and \$12,612.01, less the amount the vehicle sells for at auction, to American Road Insurance Co., at a rate to be determined by the U. S. Probation Office.
- 3) The defendant shall serve 67 days in community confinement as a direct Court commitment in the Salvation Army Community Corrections Center commencing on February 19, 1991.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) The defendant shall submit to drug analysis as directed by the U.S. Probation Office.

Defendant: Michael Baron Seely
Case Number: 90-CR-110-001-E

Judgment—Page 3 of 4**RESTITUTION AND FORFEITURE****RESTITUTION**

☒ The defendant shall make restitution to the following persons in the following amounts:

Name of Payee**Amount of Restitution**

Miami Ford Motor Co.
521 North Main
Miami, OK 74354

\$345.14

American Road Insurance
#4 Park Lane Blvd. 460
Dearborn, Michigan 48126

\$12,612.01

(Less the amount the
vehicle sells for at auction)

Payments of restitution are to be made to:

☐ the United States Attorney for transfer to the payee(s).

☒ the payee(s).

Restitution shall be paid:

☐ in full immediately.

☐ in full not later than _____.

☐ in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.

☒ in installments according to the following schedule of payments:

At a rate to be determined by the probation officer.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

☐ The defendant is ordered to forfeit the following property to the United States:

Defendant: **Michael Baron Seely**
Case Number:

Judgment—Page 4 of 4

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 9

Criminal History Category: I

Imprisonment Range: 4 to 10 months

Supervised Release Range: 0 to 3 years

Fine Range: \$ 1,000 to \$ 38,608.20

☒ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 12,957.15

☐ Full restitution is not ordered for the following reason(s):

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.

☒ for the following reason(s): **The defendant served 53 days in jail prior to being sentenced.**

United States District Court

NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 8 1991

Jack C. Silver, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

JAMES HOMER COLTHARP
5241 Enchanted Lane
Dallas, Texas 75227

Case Number: 90-CR-032-001-B

(Name and Address of Defendant)

David Booth

Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:

☒ guilty ☐ nolo contendere] as to count(s) One (1) of the Information, and
☐ not guilty as to count(s) _____.

THERE WAS A:

☒ finding ☐ verdict] of guilty as to count(s) One (1) of the Information.

THERE WAS A:

☐ finding ☐ verdict] of not guilty as to count(s) _____.
☐ judgment of acquittal as to count(s) _____.

The defendant is acquitted and discharged as to this/these count(s).

THE DEFENDANT IS CONVICTED OF THE OFFENSE(S) OF:

Conspiracy to Manufacture and Distribute Methamphetamine
Title 21, United States Code, Section 846

IT IS THE JUDGMENT OF THIS COURT THAT:

The defendant is committed to the custody of the Bureau of Prisons for a term of twelve (12) years, pursuant to Title 18, United States Code, Section 4208(b)(2).

(U.S. District Court)
(Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Jack C. Silver, Clerk

By  Deputy

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of probation set out on the reverse of this judgment are imposed.

CONDITIONS OF PROBATION

Where probation has been ordered the defendant shall:

- (1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. (When out of work notify your probation officer at once, and consult him prior to job changes);
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any changes in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

The court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

IT IS FURTHER ORDERED that the defendant shall pay a total special assessment of \$ 50 pursuant to Title 18, U.S.C. Section 3013 for count (8) One (1) of the Information as follows:

Ct. One - \$50

IT IS FURTHER ORDERED THAT ~~XXXXX~~ ^{is} the original Indictment as to this defendant ~~AND~~ DISMISSED on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall pay to the United States attorney for this district any amount imposed as a fine, restitution or special assessment. The defendant shall pay to the clerk of the court any amount imposed as a cost of prosecution. Until all fines, restitution, special assessments and costs are fully paid, the defendant shall immediately notify the United States attorney for this district of any change in name and address.

IT IS FURTHER ORDERED that the clerk of the court deliver a certified copy of this judgment to the United States marshal of this district.

☐ The Court orders commitment to the custody of the Attorney General and recommends:

February 8, 1991

Date of Imposition of Sentence

Signature of Judicial Officer

Thomas R. Brett, U. S. District Judge

Name and Title of Judicial Officer

2-8-91

Date

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____ at _____
Date

_____, the institution designated by the Attorney General, with a certified copy of this Judgment in a Criminal Case.

United States Marshal

By _____
Deputy Marshal

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 4 1991

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARL CAMPBELL,

Defendant.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 90-CR-114-E

MOTION AND ORDER OF DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, and by leave of court endorsed hereon, the United States Attorney for the Northern District of Oklahoma hereby moves to dismiss without prejudice the Indictment filed September 6, 1990, against Carl Campbell, defendant.

TONY M. GRAHAM
United States Attorney

GORDON B. CECIL
Assistant United States Attorney

Leave of court is granted for the filing of the foregoing motion to dismiss and the Court hereby orders dismissal of the requested Indictment.

ST. JAMES O. ELLISON

JAMES O. ELLISON
United States District Judge

Date: 2/4/91

GBC:ssg

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB -1 1991

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,
Plaintiff,
vs.
HAROLD E. STAPLES, III,
Defendant.

No. 90-CR-75-C

ORDER

Before the Court is the motion of the defendant to set aside verdict and enter judgment of acquittal, pursuant to Rule 29(c) F.R.Cr.P. Defendant was found guilty of a violation of 26 U.S.C. §5861(d) on December 19, 1990.

The defendant's contentions regarding scienter are dealt with easily. The Court followed the holding of United States v. Mittleider, 835 F.2d 769, 774 (10th Cir. 1987), cert. denied, 485 U.S. 980 (1988). A district court must follow the precedent of its circuit. United States v. Spedalieri, 910 F.2d 707, 709 n.2 (10th Cir. 1990).

The defendant also argues that the firearm in question was malfunctioning and did not in fact fire more than one shot with a single trigger pull "automatically". In view of contrary evidence presented at trial by the government, the Court submitted these factual questions to the jury. Obviously, the jury was not persuaded. The Court, viewing the evidence in the light most

favorable to the government, sees no basis for reversal. See United States v. Peveto, 881 F.2d 844, 860 (10th Cir.), cert. denied, 110 S.Ct. 348 (1989).

Next, defendant argues that ATF Ruling 81-4, which held that an AR-15 could be converted to a machinegun with the addition of the "auto sear" renders the present prosecution a violation of due process. He argues, in essence, that the agency should have published a supplement to Ruling 81-4 making clear that an AR-15 (i.e., some AR-15 rifles with M-16 parts) could be considered a machinegun even without the auto sear.


The Court disagrees, based upon United States v. Green, 515 F.Supp. 517 (D.Md. 1981), the decision cited by defendant, and the cases cited therein. In Green, the court made clear that published ATF rulings, pursuant to 27 C.F.R. §71.41(d), merely provide precedent for ATF decisions in other cases. They are not binding upon a court when they are contrary to the clear intent of Congress as expressed by the plain language of the statute. 515 F.Supp. at 520-21. Broad language in a criminal statute may have been enacted with a view that prosecutorial discretion will refrain from bringing indictments under certain facts. Whether this Court agrees with the exercise of that discretion is irrelevant. The Court has concluded that the prosecution in question falls within the language of the statute, and that the conviction should stand.¹

¹Defendant's citation of York v. Secretary of the Treasury, 774 F.2d 417 (10th Cir. 1985) is inapposite, as it involved a civil proceeding. Deference to an agency interpretation is not implicated regarding criminal statutes. See Crandon v. United States, 110 S.Ct. 997, 1011 (1990) (Scalia, J., concurring).

Finally, defendant argues for acquittal because he possessed the firearm before the effective date of 18 U.S.C. §922(o). Defendant was not charged with violation of this statute, and its application is irrelevant.

It is the Order of the Court that the motion of the defendant to set aside verdict and enter judgment of acquittal is hereby DENIED.

IT IS SO ORDERED this 1st day of February, 1991.


H. DALE COOK
Chief Judge, U. S. District Court